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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,393	07/30/2002	Patrick Lincoln	100696.0011US1	4739

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EXAMINER	
BATURAY, ALICIA	

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/089,393	LINCOLN ET AL.	
	Examiner	Art Unit	
	Alicia Baturay	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 July 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the amendment filed 28 February 2006.

2. Claims 8 and 18 were amended.

3. Claims 1-21 are pending in this Office Action.

Response to Amendment

4. The objection to the specification regarding minor informalities was addressed and is withdrawn.

5. The objection to the specification regarding embedded hyperlinks was addressed and is withdrawn.

6. The objection to the specification regarding the use of trademarks was addressed and is withdrawn.

7. The objection to claim 8 regarding minor informalities was addressed and is withdrawn.

8. The rejection is respectfully maintained as set forth in the last Office Action mailed on 2 December 2005. Applicant's arguments with respect to claims 1-21 have been fully considered but they are not persuasive and the old rejection maintained.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-8, 12, 13, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Wolff (U.S. 6,067,545).

11. With respect to claim 1, Wolff teaches a method of recruiting a resource, comprising:

Establishing a communications link between a requesting computer and a providing computer that is not controlled by the requesting computer (Wolff, col. 5, lines 16-22); the providing computer rejecting a first non-empty set of conditions communicated by the requesting computer; and the providing computer providing a second non-empty set of conditions, different from the first non-empty set, as part of a negotiation under which the providing computer provides the resource to the requesting computer (Wolff, col. 5, lines 23-58).

12. With respect to claim 2, Wolff teaches the invention described in claim 1, including the method where the requesting computer is located at a distance of at least 1 kilometer from the providing computer (Wolff, Fig. 1C; col. 7, lines 59-62).

13. With respect to claim 3, Wolff teaches the invention described in claim 1, including the method where the requesting computer and the providing computer are not both members of a single local area network (Wolff, Fig. 1C; col. 7, lines 59-62).

14. With respect to claim 4, Wolff teaches the invention described in claim 1, including the method where the negotiation comprises negotiating a compensation rate for the use of the resource (Wolff, col. 5, lines 25-33).

15. With respect to claim 5, Wolff teaches the invention described in claim 1, including the method where the negotiation comprises negotiating a subject matter to which the resource will be applied (Wolff, Fig. 5D; col. 23, lines 25-27).

16. With respect to claim 6, Wolff teaches the invention described in claim 1, including the method where the negotiation comprises negotiating a percent of availability of the resource at the providing computer (Wolff, col. 24, lines 46-50).

17. With respect to claim 7, Wolff teaches the invention described in claim 1, including the method where the negotiation comprises negotiating another condition under which an additional resource computer provides another resource to the requesting computer (Wolff, Fig. 1A; col. 4, lines 61-62).

18. With respect to claim 8, Wolff teaches the invention described in claim 6, including the method where an additional resource computer is located at a distance of at least 1 kilometer from the requesting computer (Wolff, Fig. 1C; col. 7, lines 59-62).

19. With respect to claim 12, Wolff teaches the invention described in claim 1, including the method further comprising the providing computer listing the resource on a directory of available resources (Wolff, col. 9, lines 34-44).

20. With respect to claim 13, Wolff teaches the invention described in claim 12, including the method further comprising the providing computer listing the condition on the directory of available resources (Wolff, Fig. 5A; col. 20, lines 40-47).

21. With respect to claim 16, Wolff teaches the invention described in claim 1, including the method where the negotiation occurs automatically without any direct human intervention (Wolff, col. 5, lines 25-33).

22. With respect to claim 17, Wolff teaches the invention described in claim 1, including the method further comprising the requesting computer broadcasting a recruitment message (Wolff, col. 5, lines 44-45).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24. Claims 9-11, 14, 15, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff and further in view of Lipa et al. (U.S. 6,061,722).

Wolff teaches the invention substantially as claimed including a system for distributing I/O requests among various servers on a network (see Background of the Invention).

25. With respect to claim 9, Wolff teaches the invention described in claim 1, including the requesting computer and the providing computer negotiating a condition under which the providing computer provides the resource to the requesting computer (Wolff, col. 5, lines 23-36).

Wolff does not explicitly teach the use of ratings information.

However, Lipa teaches the method further comprising:

The requesting computer obtaining an item of ratings information about the providing computer from a directory hosting computer (Lipa, col. 6, lines 63-67); and the requesting computer executing a first program code that determines an extent to which the requesting computer interacts with the providing computer based at least in part upon the obtained item of ratings information (Lipa, col. 7, lines 37-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

26. With respect to claim 10, Wolff teaches the invention described in claim 9, including the method where the item of ratings information relates to a job previously executed by the providing computer with respect to at least one of a satisfaction value, a promptness value, a recency value, a reliability value, a type of work value, and a compensation value (Wolff, col. 20, lines 27-30).

27. With respect to claim 11, Wolff teaches the invention described in claim 9, including the requesting computer and the providing computer negotiating a condition under which the providing computer provides the resource to the requesting computer (Wolff, col. 5, lines 23-36).

Wolff does not explicitly teach the use of ratings information.

However, Lipa teaches the method where the negotiation includes the requesting computer using the item of ratings information obtained from the directory hosting computer to negotiate with the providing computer (Lipa, col. 7, lines 59-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

28. With respect to claim 14, Wolff teaches the invention described in claim 12, including the method further comprising a hosting computer hosting the directory (Wolff, col. 6, line 38-46).

Wolff does not explicitly teach the use of ratings information.

However, Lipa teaches associating ratings with the providing computer (Lipa, col. 6, lines 63-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

29. With respect to claim 15, Wolff teaches the invention described in claim 12, including the method further comprising a hosting computer hosting the directory (Wolff, col. 6, line 38-46).

Wolff does not explicitly teach the use of ratings information.

However, Lipa teaches the method further comprising the providing computer additionally listing an item of ratings information on the directory (Lipa, col. 7, lines 37-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

30. With respect to claim 18, Wolff teaches a directory of computer controlled resources, comprising:

A plurality of resource descriptions (Wolff, col. 9, lines 34-36); at least one condition for use of each of the plurality of resource descriptions (Wolff, col. 5, lines 23-36).

Wolff does not explicitly teach the use of compensation value.

However, Lipa teaches at least one item of compensation value for each of the plurality of resource descriptions, where the at least one item of compensation value is used by a requesting computer to negotiate with a providing computer for use of at least one of the computer controlled resources (Lipa, col. 8, lines 4-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

31. With respect to claim 19, Wolff teaches the invention described in claim 18, including the directory where the condition relates to at least one resource availability factor selected from: Available time, subject matter restriction, task priority, compensation, and likelihood of downtime (Wolff, Fig. 5D; col. 23, lines 25-27).

32. With respect to claim 20, Wolff teaches the invention described in claim 18, including at least one condition for use of each of the plurality of resource descriptions (Wolff, col. 5, lines 23-36).

Wolff does not explicitly teach the use of compensation value.

information regarding an interaction between the requesting computer and the providing computer (Lipa, col. 9, line 62 – col. 10, line 9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wolff in view of Lipa in order to enable the use of ratings information. One would be motivated to do so in order to allow the client to assess the quality of the server in which the resource is connected.

33. With respect to claim 21, Wolff teaches the invention described in claim 18, including the directory further comprising an item of ratings information that includes at least one of a satisfaction value, a promptness value, a recency value, a reliability value, a type of work value, and the compensation value (Wolff, col. 20, lines 27-30).

Response to Arguments

34. Applicant's arguments filed 28 February 2006 have been fully considered, but they are not persuasive for the reasons set forth below.

35. ***Applicant Argues:*** Applicant states "Wolff does not teach that the requester engages in a bargained-for exchange (*i.e.*, where neither party completely controls the terms of the exchange) with any of the nodes, *e.g.*, to negotiate a condition under which the required resource will be provided by or via the node."

In Response: The examiner respectfully submits that in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the requester engages in a bargained-for exchange (i.e., where neither party completely controls the terms of the exchange)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, the term "negotiate" can be broadly interpreted as a client attempting to gain access to a resource, the client detecting the overload condition of the server, and subsequently determining an alternate route to another based on the overload condition of the first server (see Wolff, col. 5, lines 23-33).

36. ***Applicant Argues:*** Applicant states "Lipa also does not teach providing at least one item of compensation value, where the compensation value may be used to negotiate use of the associated resources. The passage cited by the Examiner only discusses using independently assessed (*e.g.*, by the requester) ratings of the quality of available network connections."

In Response: The examiner respectfully submits that Lipa teaches at least one item of compensation value (events or actions that would degrade the accuracy of the data are removed or compensated for), where the compensation value may be used to negotiate use of the associated resources (additional network assessment is performed to obtain a more accurate measurement of the quality of the user's connection to the specific arena, with respect to the particular requirements of that arena...the connection assessment measurements are filtered so the result is a long enough series of data points to make an accurate determination of play quality – see Lipa, col. 8, lines 10-24). This renders the rejection proper, and thus rejection stands.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
May 3, 2006

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER